

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA, ERIE

AUSTIN REDDIX, :
Petitioner, :
vs. : C.A. No. 04-305 ERIE
JOSEPH DESUTA, ET. AL., :
Respondents, :

TO THE HONORABLE Mc LAUGHLIN UNITED STATES DISTRICT COURT JUDGE,
OF SAID COURT:

"APPLICATION AND MOTION FOR AN EXTENSION OF TIME WITH
WHICH TO FILE A NON-FRIVOLOUS RESPONSE AND MEANINGFUL
OBJECTION TO THE REPORT AND RECOMMENDATION TO DISMISS
THE WRIT OF HABEAS CORPUS FILED IN THIS CASE BY THE
HONORABLE SUSAN PARADISE BAXTER, UNITED STATES
MAGISTRATE JUDGE FILED ON DECEMBER 2(5th), 2005.

SUBMITTED IN GOOD FAITH"

"FACTS"

1. That presently before this Honorable Court is the Petitioner's WRIT OF HABEAS CORPUS and the Recommendation by the Hon. SUSAN PARADISE BAXTER that the same WRIT OF HABEAS CORPUS be dismissed as untimely and that no CERTIFICATE OF APPEALABILITY be granted in this case. The petitioner take's exception to the aforesaid Report and Recommendation of the Magistrate Judge in question.

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2. The Petitioner was hereto fore tried at the January 2000 Criminal Term of The Court of Common Pleas of Erie County, Pennsylvania. The crimes charged were two counts of Possession with the Intent to deliver a Controlled Substance, and Criminal Conspiracy. The case was heard upon a plead of not guilty and was heard before the Honorable GEORGE LEVIN, and a Petit jury. Subsequently, the jury returned a verdict of guilty of all charges. The sentences imposed were consecutive to each other and were both 4 to 8 years sentences and a sentence of 3 years Probation for the Conspiracy Conviction.

3. The defendant, petitioner Pro Se. gave notice of appeal from the said judgment to The Superior Court of Pennsylvania. That such appeal was of no value to the petitioner as the Superior Court of Pennsylvania quashed the appeal on May 15th. the year 2001. That a Reargument request was denied by the same court on August 16, 2001.

4. That relief was also denied the petitioner in a PCRA Application on November 8, 2002 by the Court of Common Pleas of Erie County, Pennsylvania upon the same grounds hereto presented without hearing.

5. That your Petitioner appealed that denial judgment to The Superior Court of Pennsylvania and on the date of July 11, 2003 that Court affirmed the lower Court's judgement in an opinion that was arbitrary and capricious and given in with a lack of continuity to which it was confusing to the petitioner.

6. That your petitioner sought review of this entire case by an appeal to The Supreme Court of Pennsylvania only to have that Court arbitrarily deny the relief without an opinion, in the month August 17, 2004, submitted April 14, 2004 year of our Lord.

7. Petitioner has need had reasonable or meaningful review of said case.

QUESTIONS OF FACT

1. How can the Petitioner be Statutorily Prohibited from Constitutional Provisions when coerced from representation, denied representation, and representation of a pro se litigant?

2. Did or did not the Petitioner pursue his rights diligently?

3. Did or did not some extraordinary circumstance stand in Petitioner's way?

4. Did or did not the Petitioner fail to show that his claims are based on a factual predicate

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that could not have been discovered through the exercise of due diligence. 28 U.S.C. 2254 (d) (1)(C-D).

5. Should Respondents objection and response be waived of its defense.

CONCLUSIONS

The Petitioner respectfully moves the Honorable Court that it will grant this request for an extension of time with which to file an opposition and Response to the said Report and Recommendation of the United States Magistrate Judge. That the Petitioner is not a professional lawyer or professional jailhouse lawyer, and he needs time with which to research and present his case. That if granted time in which to prepare a Response he can show that he is entitled to an exception within the meaning of law and that he be granted review in this case upon the serious constitutional issues.

Wherefore the petitioner prays that he will be given some 90 days with which to prepare and file a Response to the United States Magistrate Report and Recommendation. That the response will be to those claims presented timely to the Commonwealth Courts.

Wherefore this action is now submitted in good faith and Petitioner will forever pray.

DATE, 12/10/05

Respectfully Submitted/S/

Austin Reddix
Petitioner

VERIFICATION

@* U.S.C. SECTION 1746

I AUSTIN REDDIX do hereby declare under the penalty of perjury that I have read the foregoing legal action to The United States District Courts sitting in Erie, Pa. and that the same is true and correct.

Executed this 10th day of December 2005

Respectfully Submitted/S/


Austin Reddix
Petitioner

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CERTIFICATE OF SERVICE

I AUSTIN REDDIX, do hereby declare and certify that I have this day caused to be served upon the person named and listed below a true and correct copy of this notice for an extension of time by so placing the same into the United States Mail Box here at SROF-MERCER, PA addressed as follows.

RAQUEL L. CROSS, ESQUIRE
ASSISTANT DISTRICT ATTORNEY
ERIE COUNTY COURTHOUSE
140 WEST 6TH. STREET
ERIE, PA 16501


AUSTIN REDDIX
NO. EE-1852
801 BUTLER PIKE
MERCER, PA 16137

DATE: 12/10/05